



November 17, 2005

Ms. Faye Lingo  
Town of Millsboro  
322 Wilson Highway  
Millsboro, DE 19966-1216

RE: PLUS review – PLUS 2005-10-11; Town of Millsboro Comp. Plan Amendments

Dear Ms. Lingo:

Thank you for meeting with State agency planners on October 26, 2005 to discuss the proposed Town of Millsboro comprehensive plan amendments.

Please note that changes to the amendments, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

The following are a complete list of comments received by State agencies:

**Office of State Planning Coordination – Contact: Ann Marie Townshend 739-3090**

The Office of State Planning Coordination has no objection to the proposed comprehensive plan amendment and zoning amendments presented by the Town of Millsboro. It is noted that the zoning amendments are part of the implementation of the Town's certified comprehensive plan.

While our office has no substantive comments on the materials submitted, detailed comments submitted by State agencies should be given serious consideration as the Town moves forward. Specifically, several agencies have commented that the "Town Center"

district name may be misleading. The list of permitted uses should be expanded and include residential. Also, the Town should identify its historic properties and put historic area and zoning code protections in place. Finally, we support the Department of Agriculture's recommendation to include a section detailing the Town's plans for agricultural preservation.

As mentioned in the PLUS meeting on October 26, the Town is working on additional implementation measures, and we offer our assistance in developing these ordinances. Please be advised that the approval of this amendment does not alter the date of the original plan certification, and a plan review required by Delaware Code will be due in June 2009.

**Division of Historic and Cultural Affairs – Contact: Alice Guerrant 739-5685**

These amendments do not address the issues of historic preservation, so the DHCA comments are general in nature. Millsboro does not currently have any properties listed in the National Register of Historic Places. The town needs to be studied to see what areas and/or individual properties are eligible for listing and/or are important to the town historically. In future planning, it is suggested that you look at the historic town more closely and think about defining their historic properties and instituting historic area protections that would then be linked to implementation through the zoning code or other mechanisms. The DHCA would be happy to help them with these efforts.

Alice agreed with other commentators that the term 'Town Center' is misleading in the sense in which it is being used. This term should be reserved for the historic commercial center of Millsboro, if it is used at all. Landscaping to provide screening between different uses is important, and can be a useful tool in protecting historic properties from nearby developments. The adoption of an Open Space zone is also important to maintain that use. They might want to consider the protection of archaeological sites as another function of such zoning.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

- 1) Regarding the proposed changes to the zoning map and the Future Land Use Map, DelDOT has examined the Future Land Use map and the proposed changes to it and have found them generally to be appropriate.
- 2) Regarding the ordinance on buffering, screening and landscaping, DelDOT notes that the ordinance seems to focus exclusively on how a property owner must

provide these elements to shield adjoining property owners from the impacts of development on the first property owner's land. However, some part of the zoning ordinance should protect the occupants of the first property owner's land from existing sources of noise, light and pollution. A primary example of such a situation would occur when lands along the railroad are proposed to be developed residentially.

- 3) The addition of Open Space (OS) and Town Center (TC) districts to the Town's zoning ordinance is a significant improvement. DelDOT congratulates the Town on their efforts in these regards.
- 4) DelDOT supports the comment from the Department of Natural Resources and Environmental Control (DNREC) that residential uses should be permitted in Town Center (TC) districts. Doing so reduces traffic by allowing residents to walk to work and shopping.
- 5) Because the Plantation Lakes development is creating the immediate need for the Town Center ordinance, it would be easy to write the ordinance narrowly to fit that specific project. DelDOT supports the comment from Sussex County that should be written more broadly, as a general ordinance usable elsewhere in the Town. In that regard, they particularly encourage the Town to revisit the list of permitted uses. For example, the current list does not include churches or government offices, which are two uses commonly found in town centers.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071**

### **Buffering, Screening and Landscaping Ordinance**

1. This ordinance should specify that plants selected for landscaping underneath utility lines should be appropriately sized for this use. Lists of appropriate trees for utility areas can be found at Delaware Department of Agriculture and the Delaware Center for Horticulture.
2. The ordinance should specifically prohibit the planting of species listed as “invasive” by the Delaware Invasive Species Council ([delawareinvasives.org](http://delawareinvasives.org)) or by Livable Delaware.
3. Given the fact that buffers are an essential component for achieving nutrient reductions that satisfy Federal Total Maximum Daily Load (TMDL) reduction requirements, the Watershed Assessment Section strongly recommends the Town

include language mandating specific buffering requirements from wetlands and water bodies. Investigations performed via peer-reviewed research have shown that a 100-foot minimum buffer width (of native woody vegetation) is the minimum buffering distance (from wetlands and water bodies) necessary to mitigate the impacts of nutrient and sediment runoff on water and habitat quality. On the basis of such research, the Watershed Assessment recommends the Town adopt the aforementioned buffer width as a requirement in their ordinance.

### **Open Space Ordinance**

The Town may wish to consider Water Resource Protection Areas as an additional “use” for the Open Space District. Water Resource Protection Areas (WRPAs) are defined as (1) surface water areas such as floodplains, limestone aquifers, and reservoir watersheds, (2) wellhead areas, or (3) excellent recharge areas. The purpose of an impervious cover threshold is to minimize loss of recharge and protect the quality and quantity of ground and surface water supplies in WRPAs.

New development in WRPAs may exceed the 20% impervious cover threshold, but be no more than 50% impervious, provided the applicant submits an environmental assessment report recommending a climatic water budget and facilities to augment recharge. The environmental assessment must document that post-development recharge will be no less than predevelopment recharge when computed on an annual basis.

Commonly, the applicant offsets the loss of recharge due to impervious cover by constructing recharge basins that convey relatively pure rooftop runoff for infiltration to ground water.

The Department recommends the following (ranked in order of preference):

- 1) Preserve WRPAs as open space and parks by acquisition or conservation easement.
- 2) Limit impervious cover of new development to 20% by right within WRPAs.
- 3) Allow impervious cover of new development to exceed 20% within WRPAs (but no more than 50% impervious) provided the applicant develops recharge facilities that directly infiltrate rooftop runoff.
- 4) Allow impervious cover of new development to exceed 20% within WRPAs (but no more than 50% impervious) provided the applicant develops recharge facilities that infiltrate stormwater runoff from forested and/or grassed surfaces with pretreatment.

For more information, refer to:

Source Water Protection Guidance Manual for the Local Governments of Delaware at  
<http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html>

and

Ground-Water Recharge Design Methodology at  
[http://www.wr.udel.edu/swaphome/phase2/Publications/swapp\\_manual\\_final/swapp\\_guidance\\_manual\\_supp\\_1\\_2005\\_05\\_02.pdf](http://www.wr.udel.edu/swaphome/phase2/Publications/swapp_manual_final/swapp_guidance_manual_supp_1_2005_05_02.pdf)

### **Town Center Ordinance**

Impervious Cover: Research findings have consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline below their predevelopment level. Moreover, increases in a watershed's surface imperviousness have been shown to reflect proportional decreases in water and habitat once this threshold is exceeded. Therefore, the Watershed Assessment Section strongly encourages the implementation of Best Management Practices (BMPs) that help reduce the predictable impacts from the creation of unnecessary surface imperviousness. The planting and/or preservation (i.e., existing riparian buffer) of trees (especially when adjacent to wetlands/water bodies), and the use of pervious paving surfaces ("pavers") in lieu of asphalt or concrete – are examples of practical BMPs to reduce such impacts.

### **State Fire Marshal's Office – Contact: Duane Fox 302-856-5298**

The DE State Fire Marshal's Office has the responsibility to review all commercial and residential subdivisions for compliance with the DE State Fire Prevention Regulations. This Agency asks that a MOU be established between the DE State Fire Marshal's Office and the Town of Millsboro. The State Fire Marshal's Office would be issuing approvals much like DelDOT, Kent Conservation, and DNREC. This Agency's approvals are based on the DE State Fire Prevention Regulations only.

The DE State Fire Marshal's Office has no objection to re-zoning issues, however, the new TC District Section I. (3) Parking on Street, may cause conflicts with the DE State Fire Prevention Regulations. Also, in the landscaping ordinance you may want to use

verbiage for tree and plant height against buildings. The taller plantings can cause obstructions to fire department access to the upper floors and roof areas.

**Department of Agriculture - Contact: Milton Melendez 698-4500**

The Delaware Department of Agriculture encourages the Town of Millsboro to include a section detailing the Town's plans for agricultural preservation. These plans should outline the prospective locations for future annexation, and the locations of current Agricultural Districts and Easements. If these plans already exist, they are not outlined on the documents submitted to PLUS relating to the Town's Comprehensive Plan. In terms of supporting future options for farmers in the Millsboro area, it would be useful for the Comp plan to mention the Town's position of Transfer of Development Rights.

Neither the Delaware Department of Agriculture nor the Delaware Forest Service opposes the Town of Millsboro Comprehensive Plan. Both the Department and the Forest Service encourages environmentally sensitive design in areas where development is supported by the *Strategies for State Policies and Spending*. In addition, the goals on the Town of Millsboro as related to farmland and forest preservation are consistent with those encouraged by the Department of Agriculture and the Delaware Forest Service. Finally, the Delaware Forest Service encourages the community to develop and promote trees within the community when possible. Such activities that would expand this resource include expanding existing tree ordinance, developing and promoting such community outreach programs as the Tree City USA Program, and expanding upon landscape ordinance which promote proper use and selection of plants, trees and shrubs. To learn more about these opportunities, please contact our office at (302) 349-5754.

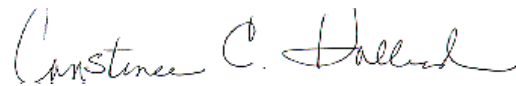
**Delaware State Housing Authority – Contact Jimmy Atkins 739-4263**

This is a proposal to amend the Town's Comprehensive Plan to amend the Town's zoning map, designate open space districts, and create a Town Center District. DSHA supports the Town's Comprehensive Plan Amendment. However, DSHA recommends when zoning or rezoning land, that land currently zoned for high density residential, is not lost to zoning classes that do not permit the development of affordable housing. For example, once land is zoned low-medium density, it is extremely difficult to rezone land for higher density at a later date. Furthermore, DSHA also recommends that the Town Center District includes residential development as a permitted use. This would allow commercial, residential, and recreational uses to be blended together and develop communities where families can live, work, shop, and play in the same area.

**Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.**

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script, reading "Constance C. Holland".

Constance C. Holland, AICP  
Director